

CARL J. KUNASEK  
CHAIRMANJIM IRVIN Corporation Commission  
COMMISSIONERWILLIAM A. MUNDELL  
COMMISSIONER

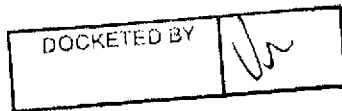
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OCT 12 2000

ARIZONA CORPORATION COMMISSION



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## MEMORANDUM

**TO:** Chairman Carl J. Kunasek  
Commissioner Jim Irvin  
Commissioner William A. Mundell

**FROM:** Mark Sendrow *MS*  
Director of Securities

**DATE:** October 11, 2000

**RE:** Proposed Order to Cease and Desist and Consent To Same for Successful Finance, Inc. and Mary Kersey, S-03264A-00-0000

**CC:** Brian C. McNeil, Executive Secretary

Attached is a proposed Order to Cease and Desist and Consent To Same ("Order") for Successful Finance, Inc. and Mary Kersey (collectively "Respondents"). The Order requires Respondents to cease and desist their activity, to pay restitution to all investors and to pay a penalty of \$25,000. Respondents admit to the findings of fact and conclusions of law and consent to the Order.

The Order finds that Kersey created Successful Finance in 1995. Kersey was an Arizona licensed securities salesman until January 11, 1996. The Order finds that Respondents raised over \$500,000 from six investors from June 1995 through January 1996, by offering promissory notes and investment contracts. Respondent Successful Finance was not licensed to sell the securities in Arizona, nor were the securities registered or exempt from registration. Respondents promised investors a safe, fully secured investment. They promised one investor that his investment would be secured by real estate. They provided balance sheets that showed assets of \$896,000, while at the time Successful Finance was actually worthless. The money raised from investors was deposited into Respondents' bank account where it was subsequently invested and lost in other schemes run by unrelated third parties.

A total of \$108,760 in interest was paid to some of the investors. Additionally, one investor received a return of his principal, namely \$40,000.

The Order also finds that Kersey continued to act as a securities salesman after her license ended, on January 11, 1996.

1200 WEST WASHINGTON, PHOENIX, ARIZONA 85007 / 400 WEST CONGRESS STREET, TUCSON, ARIZONA 85701

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The Order finds that Respondents violated A.R.S. §§ 44-1841, 44-1842 and 44-1991. It requires that Respondents permanently cease and desist their activity. It requires that Respondents make full restitution of \$396,040 to the investors, with interest accruing at the rate of 10% per annum. It also imposes a \$25,000 penalty against Respondents.

The Division recommends approval of the Order. Respondents have admitted the allegations of the Notice of Opportunity against them, which are now in the Order as the findings of fact and conclusions of law. Thus there is an Order immediately in place against Respondents. Additionally, the State may immediately seek to collect the funds owed it.

Originator: Mark Dinell

AG Assigned: Robert Zumoff

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2  
3 **CARL J. KUNASEK**

Chairman

4 **JIM IRVIN**

Commissioner

5 **WILLIAM A. MUNDELL**

Commissioner

6  
7 In the matter of

8 **SUCCESSFUL FINANCE, INC.**

2200 North Scottsdale Road, Suite R

9 Scottsdale, Arizona 85257

10 **MARY KERSEY**

7979-32 East Princess Drive

11 Scottsdale, Arizona 85255,

12 Respondents.

)  
) **DOCKET NO. S-03264A-00-0000**

)  
) **DECISION NO. \_\_\_\_\_**

)  
) **ORDER TO CEASE AND DESIST**  
) **AND CONSENT TO SAME**

13  
14  
15 **RESPONDENT SUCCESSFUL FINANCE, INC. ("SFI") and RESPONDENT MARY**  
16 **KERSEY ("KERSEY")** (collectively "RESPONDENTS"), elect to permanently waive their right  
17 to a hearing and appeal under Articles 11 and 12 of the Securities Act of Arizona, A.R.S. § 44-  
18 1801, *et seq.* ("Securities Act") with respect to this Order. RESPONDENTS admit the  
19 jurisdiction of the Arizona Corporation Commission ("Commission"); admit the Findings of Fact  
20 and Conclusions of Law contained in this Order; and consent to the entry of this Order by the  
21 Commission.

22 ..

23 ..

24 ..

25 ..

26 ..

## I.

## FINDINGS OF FACT

1. SFI is an Arizona corporation located at 2200 North Scottsdale Road, Suite R, Scottsdale, Arizona 85257.

2. KERSEY, aka Mary Kerseyhood, aka Mary L. Hood, aka Mary Kersey-Hood, is an Arizona resident whose last known address is 7979-32 East Princess Drive, Scottsdale, Arizona 85255.

3. SFI and KERSEY are not registered as securities dealers with the Commission. KERSEY was registered as a securities salesman with the Commission, beginning on November 8, 1988. From May 31, 1995, through January 11, 1996, KERSEY was affiliated with Finance 500, Inc. Her Arizona registration terminated on January 11, 1996, when she left that firm.

4. In 1995, KERSEY incorporated SFI. Her son, Barton Kersey, was listed as president.

5. Beginning in June 1995, SFI, through its agent, KERSEY, offered promissory notes or investment contracts for sale to the public. SFI, through KERSEY, obtained at least \$500,000 from eight investors. The majority of the offered promissory notes or investment contracts were held in Individual Retirement Accounts ("IRAs") at the First National Bank of Onaga ("FNB"), located in Onaga, Kansas.

6. KERSEY initially solicited clients of her securities business. KERSEY told the investors that the investment was safe, fully secured and guaranteed. She told at least one investor that the investment was secured by real estate.

7. SFI and KERSEY did not provide any prospectus or written documents to investors prior to their investment. SFI and KERSEY did provide written promissory notes to five of the investors who invested through their IRAs, as FNB, the custodian of the IRAs, required promissory notes and corporate authorizations prior to authorizing the investment and releasing the funds to

1 SFI. The notes were signed with the name of Barton Kersey as president of SFI, although  
2 KERSEY was aware at the time she sent the notes to FNB that Barton Kersey had not signed them.

3 8. The SFI corporate authorization was signed with the names of KERSEY, Barton  
4 Kersey and Todd Allen. Todd Allen was also a son of KERSEY. KERSEY herself signed all  
5 three signatures. The promissory notes were typed by KERSEY. They stated that the offered  
6 promissory notes or investment contracts were secured by a first position on assets owned by  
7 Barton Kersey and SFI. A financial statement listing SFI's assets was attached to the notes. At the  
8 time the notes were sent to FNB for acceptance, the SFI financial statement listed \$896,700 in  
9 assets. That information was false, other than an automobile owned by Barton Kersey that was  
10 valued at \$15,000. The remaining assets did not exist. At the time the financial sheet was created,  
11 showing \$896,700 in assets, the SFI annual report filed with the Commission listed \$65 in assets.

12 9. For those investors who did not invest through their IRA accounts, SFI and  
13 KERSEY did not provide promissory notes. KERSEY informed those investors that the  
14 investment was safe and secured. She told them that they would receive eleven percent interest.  
15 She provided no written documentation, no prospectuses or financial statements to these  
16 investors.

17 10. All funds raised by SFI and KERSEY were deposited in SFI's bank account  
18 where they were controlled and utilized by KERSEY.

19 11. SFI and KERSEY used the money they raised to invest in to two companies, Austin  
20 Oil and Worldlink. \$84,577 was invested with Austin Oil, while the remainder went to Worldlink.  
21 All investments in both companies were lost. The investment decisions were made by KERSEY.

22 12. Part of the funds raised by SFI and KERSEY were used to purchase a house in  
23 Scottsdale. The house was titled in KERSEY's name, although the funds came from SFI. A  
24 person whom KERSEY knew, Krys Disney, the principal of Worldlink, then inhabited the  
25 house. The house was then sold by KERSEY, who used the proceeds to pay to the investors.  
26

14. The investors received \$108,760 in payments on their investment. One investor received back his investment of \$40,000. SFI and KERSEY used money raised from later investors to pay interest to the earlier investors. No disclosure of this was made to any of the investors.

9           15. Despite lacking securities registration since January 11, 1996, KERSEY has  
10 continued to solicit orders or offer to sell securities without being registered. Her clients purchased  
11 and sold securities based upon KERSEY's solicitations or offers, unaware that she was not  
12 registered to sell securities.

14 CONCLUSIONS OF LAW

15           1.       The Commission has jurisdiction over this matter pursuant to Article XV of the  
16       Arizona Constitution and the Securities Act

17           2.       RESPONDENTS offered or sold securities within or from Arizona, within the  
18 meaning of A.R.S. §§ 44-1801(15), 44-1801(21), and 44-1801(26).

19           3.       RESPONDENTS violated A.R.S. § 44-1841 by offering or selling securities that  
20       were unregistered, not the subject of a notice filing under A.R.S. § 44-3321, and not exempt from  
21       registration.

22           4.       RESPONDENT SFI violated A.R.S. § 44-1842 by offering or selling securities  
23 while not registered as a dealer or salesman, and not exempt from registration. RESPONDENT  
24 KERSEY violated A.R.S. § 44-1842 by offering or selling securities after January 11, 1996,  
25 while not registered as a dealer or salesman, and not exempt from registration.

1           5.       RESPONDENTS violated A.R.S. § 44-1991 by offering or selling securities  
2 within or from Arizona by (a) employing a device, scheme or artifice to defraud, (b) making  
3 untrue statements or misleading omissions of material facts, and (c) engaging in transactions,  
4 practices, or courses of business which operate or would operate as a fraud or deceit:

- 5           a)       Failing to disclose to investors that SFI was controlled by KERSEY  
6                   and that her son, Barton Kersey, was its president;
- 7           b)       Informing investors that their investment with SFI was safe, secured,  
8                   collateralized and guaranteed;
- 9           c)       Utilizing the investors' funds to invest in speculative and unsecured  
10                   investments while failing to inform investors as to that use of their funds;
- 11           d)       Failing to inform investors that some of their funds were used to purchase a  
12                   house in KERSEY's name and that the house was inhabited by Krys  
13                   Disney;
- 14           e)       Failing to inform investors that SFI and KERSEY had no written  
15                   documentation from Worldlink, the company to which SFI and KERSEY  
16                   gave most of the investor's money;
- 17           f)       Informing at least one investor that the investment was secured by real  
18                   estate;
- 19           g)       Providing promissory notes, financial statements and corporate resolutions  
20                   that contained false and misleading information to FNB, the investors'  
21                   agent.   RESPONDENTS provided the promissory notes, financial  
22                   statements and corporate resolutions to FNB with the knowledge that FNB  
23                   would not release the investors' funds without the documentation;
- 24           h)       Utilizing the funds of later investors to pay off earlier investors without  
25                   informing any investors of that fact;
- 26

- 1           i)     Failing to inform investors that the securities KERSEY was selling were  
2                     not recorded on the books of the dealer with whom she was registered;  
3                     and  
4           j)     Soliciting orders or offering to sell securities without informing investors  
5                     that KERSEY was not registered as a securities salesman.

6           6.     RESPONDENTS' conduct is grounds for a cease & desist order pursuant to  
7     A.R.S. § 44-2032.

8           7.     RESPONDENTS' conduct is grounds for an order of restitution to be provided  
9     pursuant to A.R.S. § 44-2032.

10          8.     RESPONDENTS' conduct is grounds for penalties to be assessed under A.R.S. §  
11     44-2036.

### 12                     III.

### 13                     ORDER

14           THEREFORE, on the basis of the Findings of Fact, Conclusions of Law, and the  
15     RESPONDENTS' consent to the entry of this Order, the Commission finds that the following  
16     relief is appropriate, in the public interest, and necessary for the protection of investors:

17           IT IS ORDERED, pursuant to A.R.S. § 44-2032, that RESPONDENTS, their agents,  
18     employees, successors and assigns, permanently cease and desist from violating the Securities  
19     Act.

20           IT IS FURTHER ORDERED, pursuant to A.R.S. § 44-2032, that RESPONDENTS shall,  
21     jointly and severally, pay restitution to investors as reflected on the records of the Commission in  
22     the amount of \$396,040, plus interest at the rate of 10% per annum from the date of this order  
23     until paid. Payment is to be made to the state of Arizona to be placed in an interest-bearing  
24     account maintained and controlled by the Arizona Attorney General. The Arizona Attorney  
25     General shall disburse the funds on a pro rata basis to investors. If any disbursement check is not  
26     deliverable or does not clear the account within 90 days from the date of issuance, the funds shall



be redistributed to the known investors. If all investors are paid in full, any excess funds shall revert to the state of Arizona.

IT IS FURTHER ORDERED, pursuant to A.R.S. § 44-2036, that RESPONDENTS shall, jointly and severally, pay an administrative penalty in the amount of \$25,000, payable to the State of Arizona. Any amount of penalty outstanding will accrue interest at the rate of 10% per annum from the date of this Order until paid in full.

IT IS FURTHER ORDERED that this Order shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION

CHAIRMAN

COMMISSIONER

COMMISSIONER

IN WITNESS WHEREOF, I, Brian C. McNeil, Executive Secretary of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this \_\_\_\_ day of \_\_\_\_\_, 2000.

BRIAN C. McNEIL  
Executive Secretary

DISSENT  
(MD)

This document is available in alternative formats by contacting Cynthia Mercurio-Sandoval, ADA Coordinator, voice phone number: 602/542-0838, email: csandoval@cc.state.az.us.

**1        CONSENT TO ENTRY OF COMMISSION ORDER AND WAIVER OF HEARING**

2            1.        RESPONDENTS SFI and KERSEY admit the jurisdiction of the Commission  
3 over the subject matter of this proceeding. RESPONDENTS acknowledge that they have been  
4 fully advised of their right to a hearing to present evidence and call witnesses and  
5 RESPONDENTS knowingly and voluntarily waive any and all rights to a hearing before the  
6 Commission and all other rights otherwise available under Article 11 of the Securities Act and  
7 Title 14 of the Arizona Administrative Code. RESPONDENTS acknowledge that this Order To  
8 Cease And Desist And Consent To Same ("Order") constitutes a valid final order of the  
9 Commission.  
10

11            2.        RESPONDENTS knowingly and voluntarily waive any right they may have  
12 under Article 12 of the Securities Act to judicial review by any court by way of suit, appeal, or  
13 extraordinary relief resulting from the entry of this Order.  
14

15            3.        RESPONDENTS acknowledge and agree that this Order is entered into freely  
16 and voluntarily and that no promise was made or coercion used to induce them to enter into it.  
17

18            4.        RESPONDENTS acknowledge that they have reviewed this Order and  
19 understand all terms it contains.  
20

21            5.        RESPONDENTS admit the Findings of Fact and Conclusions of Law contained  
22 in this Order.  
23

24            6.        RESPONDENTS consent to the entry of this Order and agree to be fully bound  
25 by its terms and conditions.  
26

             7.        By consenting to the entry of this Order, RESPONDENTS agree not to take any  
action or to make, or permit to be made, any public statement denying, directly or indirectly, any  
Finding of Fact or Conclusion of Law in this Order or creating the impression that this Order is

1 without factual basis. RESPONDENTS will undertake steps necessary to assure that all of their  
2 agents and employees understand and comply with this agreement. If RESPONDENTS breach  
3 this agreement, the Commission may vacate this Order and restore this case to its active docket.

4 8. While this Order settles this administrative matter between RESPONDENTS and  
5 the Commission, RESPONDENTS understand that this Order does not preclude the  
6 Commission from instituting other administrative proceedings based on facts not presently  
7 known by the Commission or matters that are not addressed by this Order.

8 9. RESPONDENTS understand that this Order does not preclude the Commission  
9 from initiating pursuit of civil or criminal proceedings that may be related to the matters  
10 addressed by this Order.

11 10. RESPONDENTS understand that this Order does not preclude any other agency  
12 or officer of this State or its subdivisions from instituting administrative, civil or criminal  
13 proceedings that may be related to matters addressed by this Order.

14 11. RESPONDENTS agree that they will not act in any position of control of any  
15 entity created or recognized under Arizona law that offers or sells securities within or from  
16 Arizona.

17 12. RESPONDENTS acknowledge that interest at the rate of 10% per annum will  
18 continue to accrue on the unpaid restitution and penalties until the amounts are paid in full.

19 13. RESPONDENTS agree that until restitution and penalties are paid in full,  
20 RESPONDENTS will notify the Director of the Securities Division within 30 days of any change  
21 in their home or business address or of any change in their financial condition affecting their  
22 ability to pay restitution or penalties under this Order.  
23  
24  
25  
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SUCCESSFUL FINANCE, INC.

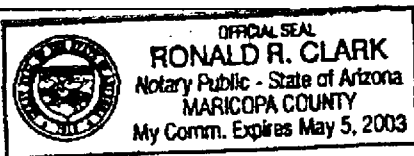
Mary Kersey

SUBSCRIBED AND SWORN TO BEFORE me this 28 day of Sept.

2000.

Ronald R. Clark  
NOTARY PUBLIC

My Commission Expires:



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